

## REMARKS

Favorable reconsideration of this application is respectfully requested in view of the following remarks.

The Examiner is kindly requested to consider and initial next to each item of information submitted in the Information Disclosure Statement filed August 28, 2009, and to return to the undersigned a fully-initialed copy of the Form PTO-1449.

Examiner Hand is kindly thanked for the courtesies extended to Applicants' representative during the telephone interview held November 4, 2009. The reasons warranting favorable action discussed during the interview are incorporated into the following remarks and constitute Applicants' separate record of the interview.

Claims 1-3, 5, 6, 9-18, 22, 23 and 26-29 are pending in this application. By this Amendment, independent Claim 16 is amended, and Claim 11 is rewritten to be in independent form. Thus, Claims 1, 11 and 16 are independent. Support for the amendment to Claim 16 can be found, for example, in paragraphs [0019] and [0030] of the published U.S. specification. No new matter is added.

Applicants appreciate the Examiner's indication that Claim 11 recites allowable subject matter, and would be allowable if rewritten in independent form including all of the features of the base claim and any intervening claims. As discussed above, Claim 11 is rewritten to be in independent form including all of the features of base Claim 1 and intervening Claim 10. Thus, independent Claim 11 is allowable.

The Office Action rejects Claims 1-3, 5, 6, 9-15 and 18 under 35 U.S.C. §112, second paragraph, because of Claims 1, 2, 6, 11 and 18. In particular, the Office

Action asserts that the open ended ranges in Claims 1, 2, 6, 11 and 18 render the claims indefinite. The rejection is respectfully traversed.

There is nothing in MPEP §2173.05(c) that says the ranges defined in Claims 1, 2, 6, 11 and 18 are indefinite. The Office Action asserts that the range of "a width being maximally 20 mm" recited Claim 6 is indefinite because the lower limit of the claimed width is not clear. However, as discussed during the interview, the Patent Office has issued numerous patents including similar open ended ranges. For example, Claim 2 of U.S. Patent No. 6,575,329 recites that the widest width of a dispensing throat "does not exceed about 2.5 inches." Claim 12 of U.S. Patent No. 6,368,609 defines a staple length fiber "having a length not to exceed about 1.5 inches." Claim 12 of U.S. Patent No. 6,773,797 recites that a filler material has an average particle size "that does not exceed about 10 microns." Just as the open ended ranges of the above patents were determined by the Patent Office to not be indefinite, the similarly defined range in Claim 6 also is not indefinite. As the Office Action acknowledges that the range in recited in Claim 6 at issue here does not include zero as a width, the range clearly covers all possible widths of the claimed material that are greater than 0 mm up to 20 mm, as discussed during the interview.

In addition, the Office Action asserts that the recited density "exceeding 0.4 g/cm<sup>3</sup>" and "exceeding 0.5 g/cm<sup>3</sup>" is indefinite because the upper limit of the density is not clear. However, the Patent Office has issued numerous patents including similarly defined amounts. For example, Claim 1 of U.S. Patent No. 7,422,658 recites "a wetted surface depth of greater than about 0.2 mm." Claim 1 of U.S. Patent No. 7,470,345 recites "a roll having a roll bulk about 10 cc/g or greater." Claim 1 of U.S. Patent No. 7,455,849 recites that "a liquid powder formulation has a

percent solids of greater than 30%." Just as the claimed amounts in the above patents were determined by the Patent Office to not be indefinite, the similarly defined amounts in Claims 1, 2, 11 and 18 also are not indefinite. Further, as discussed during the interview, Table 2 in the present specification lists exemplary densities of test samples. Table 2 provides one skilled in the art with sample densities "exceeding 0.4 g/cm<sup>3</sup>" as recited, for example, in independent Claim 1. The claims are not limited to the densities of the test samples.

Withdrawal of the rejection is respectfully requested.

The Office Action rejects independent Claim 16 under 35 U.S.C. §102(a) or (e) over Guidotti et al. ("Guidotti"), U.S. Patent No. 6,429,351. The rejections are respectfully traversed.

Independent Claim 16 recites an absorbent article comprising, *inter alia*, an acquisition layer and at least one first storage layer comprising a super absorbent material. The first storage layer has a greater ability to retain liquid than the acquisition layer, and is located between the acquisition layer and the liquid permeable upper surface.

Guidotti discloses an absorbent article having a liquid-permeable casing sheet 101, a liquid-acquisition layer 119 and a storage layer 123, as shown in Figs. 2b and 4b of Guidotti. The Office Action takes the position that the liquid-acquisition layer 119 corresponds to the claimed first storage layer and that the storage layer 123 corresponds to the claimed acquisition layer. However, as discussed during the interview, Guidotti explicitly discloses that the liquid-acquisition layer 119 is an acquisition layer and the storage layer 123 is a storage layer. In this regard, Guidotti states that the liquid-acquisition layer 119 quickly receives and collects relatively

large volumes of body liquid (see col. 8, lines 52-56 of Guidotti), while the storage layer 123 is comprised of a material that has a high liquid absorption and storage capacity (see col. 4, lines 4 and 5 and col. 9, line 67 to col. 10, line 1). Accordingly, as discussed during the interview, Guidotti's storage layer 123 has a greater ability to retain liquid than the liquid-acquisition layer 119. The liquid-acquisition layer 119 ("first storage layer") does not have a greater ability to retain liquid than the storage layer 123 ("acquisition layer").

During the interview, the Examiner said that Guidotti's liquid-acquisition layer 119 may have a superabsorbent material in the amount of 19% and that the storage layer 123 may have a superabsorbent material in the amount of 10%, based on col. 9, line 44 and col. 10, line 4 of Guidotti. However, as discussed during the interview, simply because the amount of superabsorbent material in the liquid-acquisition layer 119 may be up to 19%, and the amount of superabsorbent material in the storage layer 123 may be as low as 10%, does not mean that one skilled in the art would have made the amount of superabsorbent material in the liquid-acquisition layer 119 to be greater than the amount in the storage layer 123.

On the contrary, as the liquid-acquisition layer 119 is provided above the storage layer 123 as shown in Figs. 2b and 4b of Guidotti, one skilled in the art would have ensured that the amount of superabsorbent material in the storage layer 123 is greater than the amount in the liquid-acquisition layer 119, so that the liquid-acquisition layer 119 functions as an acquisition layer, and the storage layer 123 functions to store the liquid received from the liquid-acquisition layer 119 as discussed above (see col. 8, lines 52-56, col. 4, lines 4 and 5, and col. 9, line 67 to col. 10, line 1 of Guidotti). A superabsorbent material in the amount of 19% for the

liquid-acquisition layer 119 combined with a superabsorbent material in the amount of only 10% for the storage layer 123 would inhibit the storage layer 123 from functioning as a storage layer relative to the liquid-acquisition layer 119, and inhibit the liquid-acquisition layer 119 from functioning as a liquid-acquisition layer relative to the storage layer 123. That is, these amounts would change the principle of operation of the two layers relative to each other (MPEP §2143.01(VI)) and render these layers unsatisfactory for their intended purpose (MPEP §2143.01(V)) as discussed during the interview.

In addition, if the Office Action changes its interpretation of Guidotti such that the storage layer 123 corresponds to the claimed first storage layer, Applicants note the storage layer 123 is not located between the liquid-acquisition layer 119 and the liquid-permeable casing sheet 101 (see Figs. 2b and 4b of Guidotti), as recited in independent Claim 16.

Thus, as discussed during the interview, Guidotti fails to disclose an absorbent article comprising, *inter alia*, an acquisition layer and at least one first storage layer comprising a super absorbent material, the first storage layer having a greater ability to retain liquid than the acquisition layer, and being located between the acquisition layer and the liquid permeable upper surface, as recited in independent Claim 16. Therefore, independent Claim 16 is patentable over Guidotti for at least these reasons.

Next, the Office Action rejects independent Claim 1 under 35 U.S.C. §103(a) over Guidotti in view of Widlund et al. ("Widlund"), WO 94/10956 A1. The rejection is respectfully traversed.

Independent Claim 1 is directed to an absorbent article comprising, *inter alia*, an acquisition layer and at least one first storage layer, the first storage layer comprising at least 50 percent by weight of a super absorbent material calculated on the total weight of the first storage layer.

The Office Action acknowledges that Guidotti fails to disclose the claimed at least 50 percent by weight of a super absorbent material of Claim 1. Widlund discloses that a suitable superabsorbent content is 30-70% (see last paragraph on page 16 of Widlund). The Office Action asserts that it would have been obvious to modify Guidotti's article based on Widlund's disclosure to result in the claimed percentage of absorbent material. Applicants respectfully disagree.

In col. 9, lines 34-40, Guidotti refers to Widlund as describing the manufacture of a suitable material for an article that may include a superabsorbent. However, as discussed during the interview, the material discussed in this passage is the cylindrical bodies 20 of the *acquisition layer 19* (see col. 9, lines 5-40), not the storage layer 23. Moreover, it would not have been obvious to modify the cylindrical bodies 20 of the acquisition layer 19 based on Widlund to have a superabsorbent material in the amount of least 50 percent by weight (i.e., the same or greater than the amount in the storage layer 23) because doing so would inhibit the acquisition layer 19 from acting as an acquisition layer relative to the storage layer 23, as discussed above.

Further, Guidotti specifically teaches that the amount of superabsorbent in the material of Guidotti's article should be less than 20% (see col. 9, lines 41-44 of Guidotti). Guidotti's teaching in this regard is made even with the understanding that the material may be manufactured according to Widlund. Guidotti discloses that the

material used in accordance with Widlund allows a greater amount of superabsorbent to be admixed with the material, since such material compensates for swelling in the xy-direction by swelling in the z-direction (see col. 9, lines 48-52), but Guidotti does not suggest that any such increase in the amount of superabsorbent material should result in a total amount of more than 20%. Thus, one skilled in the art reading Guidotti's disclosure would not have modified Guidotti's article to include an amount of superabsorbent of at least 50% as defined in independent Claim 1.

In view of the above, the combination of Guidotti and Widlund fails to disclose and would not have rendered obvious the combination of features recited in independent Claim 1, including a first storage layer comprising at least 50 percent by weight of a super absorbent material calculated on the total weight of the first storage layer. Thus, independent Claim 1 is patentable over Guidotti and Widlund for at least the above reasons.

Claims 2, 3, 5, 6, 9, 10, 12-18, 22, 23 and 26-29 are patentable over the applied references at least by virtue of their dependence from the patentable independent claims. Thus, a detailed discussion of the additional distinguishing features recited in these dependent claims is not set forth at this time.

Withdrawal of the rejections is respectfully requested.

Should any questions arise in connection with this application or should the Examiner believe that a telephone conference with the undersigned would be helpful in resolving any remaining issues pertaining to this application the undersigned respectfully requests that he be contacted at the number indicated below.

Respectfully submitted,

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